

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6033 of 1989

For Approval and Signature:

Hon'ble MR.JUSTICE C.K.THAKKAR

- =====
1. Whether Reporters of Local Papers may be allowed : YES  
to see the judgements?
  2. To be referred to the Reporter or not? : YES
  3. Whether Their Lordships wish to see the fair copy : NO  
of the judgement?
  4. Whether this case involves a substantial question : NO  
of law as to the interpretation of the Constitution  
of India, 1950 of any Order made thereunder?
  5. Whether it is to be circulated to the Civil Judge? : NO

-----  
PARVATIBEN H RANA

Versus

STATE OF GUJARAT  
-----

Appearance:

MR N.V.ASHAR FOR MR DM THAKKAR for Petitioner

M A BUKHARI,AGP for Respondent No. 1

MS Yogini Parikh for Respondent No. 2  
-----

CORAM : MR.JUSTICE C.K.THAKKAR

Date of decision: 14/03/2000

ORAL JUDGEMENT

This petition is filed by the petitioner for an appropriate writ, order or direction quashing and setting aside an order of termination,dated 8th May 1989 , Annexure `A' to the petition and by directing the respondents to reinstate the petitioner with all consequential benefits.

The case of the petitioner was that she was appointed as Assistant Lecturer and Rector (Grihmata) with effect from

31st January 1983 in Bai Surajba Govindbhai Patel Stree Adhyapan Mandir, Sunav, Taluka Petlad, District Kheda. According to the petitioner, the respondent school was under direct control of the State of Gujarat, respondent No.1 and the institution was run with the aid of the Government. It was her case that respondent No.2, by the impugned order dated 8th May, 1989 terminated her services with effect from the next date. i.e., 9th May, 1989 in accordance with provisions of Rule 11 (3) (ii) of the Gujarat Educational Institutions (Pre-primary and Primary Teachers Training Colleges) Rules, 1984 (hereinafter referred to as 'the Rules'). Along with the order, a cross order cheque for Rs. 12,294/- was sent.

Being aggrieved by the above action, the petitioner has approached this Court.

Initially, notice was issued and thereafter the matter was admitted. Today, the petition is called out for final hearing.

I have heard Mr. Niraj V Asher for Mr. D.M.Thakker for the petitioner, Mr. M.A.Bukhari, AGP for respondent No.1 and Ms Yogini Parikh for respondent No.2.

On behalf of the petitioner, it was contended that the order, though appears to be of termination simpliciter, in substance and in reality, it is punitive in nature and as no notice was issued, no explanation was sought and no hearing was afforded to the petitioner, it is liable to be set aside being violative of principles of natural justice and fair play.

It was also submitted that the order was passed under certain circumstances which were relevant. The petitioner was serving as Rector (Grih Mata) in Ladies Hostel. She was having her family. She was not allowed to stay outside the hostel nor permitted to keep her relatives in the quarter, so much so that she was not allowed to keep her child and thus deprived of her child who was about one year of age. My attention was invited to an application, Annexure 'C' wherein it was stated that the petitioner had married before six months of the application. Her relatives were staying in the same village and the petitioner had to visit family members. But the petitioner was not permitted to go out. It was also stated that the petitioner had to stay in the hostel, but she may have to take leave for other works. It was alleged that on 2nd May, 1989, Annexure 'E' because of her ill health, she had to proceed on leave. If all those facts are considered, the order can be said

to be penal and deserves to be quashed and set aside.

Mr Bukhari, learned AGP and Ms Yogini Parikh, on the other hand, supported the order passed by respondent No.2. It was stated that the petitioner was working as Assistant Lecturer and Rector in girls hostel. There were about 160 girl-students and the petitioner was required to take care of those students. In these circumstances, when the petitioner was appointed on 31st January, 1983, in the appointment letter itself, certain conditions were imposed. Appointment order is also placed on record along with the affidavit in reply. In para 4 of the counter, it was stated as under:

"4. With reference to para 2 of the petition, I say that the petitioner was appointed as an Assistant Lecturer-cum-Rector vide order of appointment dated 31.1.1983. The appointment of the petitioner was to the combined post of Assistant Lecturer (Rector) . The letter of appointment contained express conditions of service as Rector of the hostel, in which girls from out-stations stay to prosecute the study in the respondent No.2 institute. I say that about 160 female students are staying in the hostel attached to the respondent No.2 institute. As a Rector of the ladies hostel, full time attention and devotion is called for. That is why, the appointment letter contained condition that the petitioner will be required to stay in the hostel full time and that the family members-husband will not be permitted to stay in the hostel. The appointment letter has also provided that whole day leave will not be admissible to Rector. The petitioner having perused the terms and conditions of the appointment, accepted the same. Annexed hereto and marked as Annexure I is the copy of the appointment letter together with the acceptance letter of the petitioner agreeing to abide by the terms and conditions regarding hostel. The appointment of the petitioner was effective from 7.2.1983. Though irrelevant for the purpose of the present petition, the contention that the petitioner has rendered service sincerely and to the best satisfaction of the respondents is not correct."

On the terms and conditions of appointment, my attention was specifically invited to condition Nos. 1, 2 and 3

wherein it was clearly stated that the petitioner had to stay day and night in the hostel; that she would not be permitted to keep her husband in the hostel nor any relative during night time and that she would not ask for any leave when the hostel was working. Obviously, therefore, the petitioner cannot make any grievance against non-granting of leave by the respondent authority.

In the facts and circumstances, it cannot be said that the order is punitive in nature or that it was passed with a view to punish the petitioner. Looking to the facts stated in para 4 of the affidavit in reply as also the terms and conditions of appointment, it is crystal clear that the petitioner was a Rector in ladies hostel. There were about 160 female students. Obviously, therefore, respondent No.2 was concerned about well being of all those female students. She was specifically informed at the time of appointment that she would have to remain day and night in the hostel, she would not be permitted to allow her husband or other relatives to stay with her and that she would not ask for leave. If, in spite of that, she was not staying in the hostel or was asking for leave to go out, in accordance with the terms and conditions of appointment read with Rule 11 of the Rules, her services could be terminated. By doing so, respondent No.2 has not committed any illegality which requires interference.

For the foregoing reasons, I see no substance in the petition. It deserves to be dismissed and is accordingly dismissed. Rule is discharged. No order as to costs.

At this stage, learned advocate for the petitioner stated that though a cheque for Rs.12,294/- was given at the time of passing the impugned order on 8th May, 1989, the petitioner had not got it credited. In the facts and circumstances, it would be in the interest of justice if I direct respondent No.2 to issue a fresh cheque within a period of one month from the receipt of the writ. Order accordingly.

--

parekh